

and at large appear from the following memorandum opinion (Sawtelle, D. J.):

In this case the government seeks to condemn 6 bottles of Tratamiento Zendejas, and the libel alleges that the same were branded and shipped by the claimant herein in interstate commerce in violation of the Act of June 30th, 1906, as amended by the Act of August 23rd, 1912 (Section 8724, Compiled Statutes 1913). This act provided: "That for the purpose of this Act an article shall be deemed to be misbranded: In case of Drugs * * * Third, If its package or label shall bear or contain any statements, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false and fraudulent."

The claimant admits that he printed and published the statement contained in the circular and labels and also admits the interstate shipment, but expressly denies that such statements were false and fraudulent.

A careful reading of the evidence convinces me that the statement which accompanied the packages in question were made and published by the claimant with the intent to deceive and that the representations therein made with respect to the curative or therapeutic effects of the mixture contained in the bottles and packages were knowingly false and fraudulent.

U. S. v. Eckmons, 239 U. S. 510.

Bradley v. U. S., 264 Fed. 799. C. C. A.

McLean Medicine Co. v. U. S., 263 Fed. 694.

A judgment may be entered for the libellant.

On or about May 20, 1921, the case having come on for final disposition, it was ordered by the court that the product be destroyed by the United States marshal, and that the claimant pay the costs of the proceedings.

C. W. PUGSLEY,

Acting Secretary of Agriculture.

9434. Misbranding of tankage. U. S. * * * v. 16 Sacks * * * of Tankage. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 13218. I. S. No. 3405-t. S. No. C-2079.)

On August 14, 1920, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 16 sacks, more or less, of tankage, remaining in the original unbroken packages at Ivanhoe, Minn., alleging that the article had been shipped by Geo. P. Sexauer & Son, Brookings, S. D., on or about March 27, 1920, and transported from the State of South Dakota into the State of Minnesota, and charging misbranding in violation of the Food and Drugs Act. The article was labeled: "100 lbs. Net Decker's Protodol Sterilized Digester Tankage, guaranteed analysis protein 60 per cent, bone building phosphate 10 per cent, fat 8 per cent, fiber 4 per cent Jacob E. Decker and Sons, Mason City, Iowa."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it contained 50.27 per cent of protein.

Misbranding of the article was alleged in the libel for the reason that the statement regarding the quantity of protein in said article, to wit, "Protein 60 per cent," was false and misleading and deceived and misled the purchaser.

On December 11, 1920, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY,

Acting Secretary of Agriculture.

9435. Misbranding of Parry's Vegetable Compound. U. S. * * * v. Certain Bottles of Parry's Vegetable Compound Nos. 1 to 14, inclusive. Decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 13762. I. S. Nos. 8247-t to 8260-t, inclusive. S. Nos. E-2800 to E-2813, inclusive.)

On October 7, 1920, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District